

EXHIBIT “N”

American Court Reporting
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IN THE FEDERAL COURT OF
 THE MIDDLE DISTRICT OF ALABAMA
 NORTHERN DIVISION

CIVIL ACTION NUMBER
 2:06CV 377-WKW

PIONEER SERVICES, INC.,
 Plaintiff,

vs

AUTO OWNERS INSURANCE
 COMPANY,
 Defendant.

VIDEOTAPE DEPOSITION TESTIMONY OF:
 BILL REAVES

January 25, 2007
 10 a m

COURT REPORTER:
 APRIL R BENDINGER, CSR

1 offered in evidence, or prior thereto
 2 In accordance with Rule 5(d) of the
 3 Alabama Rules of Civil Procedure, as amended,
 4 effective May 15, 1988, I, April R. Bendinger,
 5 am hereby delivering to MR. HARRY HALL the
 6 original transcript of the oral testimony taken
 7 January 25, 2007, along with exhibits.
 8 Please be advised that this is the same
 9 and not retained by the Court Reporter, nor
 10 filed with the Court
 11
 12
 13
 14

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1 STIPULATION
 2 IT IS STIPULATED AND AGREED by and
 3 between the parties through their respective
 4 counsel that the deposition of BILL REAVES may
 5 be taken before April R. Bendinger, Notary
 6 Public, State at Large, at the Law Offices of
 7 Morrow, Romine & Pearson, 122 South Hull Street,
 8 Montgomery, Alabama 36103, on January 25, 2007,
 9 commencing at approximately 10 a m.
 10 IT IS FURTHER STIPULATED AND AGREED
 11 that the signature to and the reading of the
 12 deposition by the witness is waived, the
 13 deposition to have the same force and effect as
 14 if full compliance had been had with all laws
 15 and rules of Court relating to the taking of
 16 depositions.
 17 IT IS FURTHER STIPULATED AND AGREED
 18 that it shall not be necessary for any
 19 objections to be made by counsel to any
 20 questions, except as to form or leading
 21 questions and that counsel for the parties may
 22 make objections and assign grounds at the time
 23 of trial or at the time said depositions is

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 3 EXAMINATION BY: PAGE
 4 Mr Hall 25
 5 Certificate 280
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1 (Pages 1 to 4)

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1 A Eight, maybe ten hours
 2 Q Any damage to your house?
 3 A No
 4 Q Do you recall how many claims you
 5 had come in as a result of Ivan?
 6 A No, I do not
 7 Q Was it more than 100?
 8 A There were thousands of claim that
 9 came in
 10 Q For territory four?
 11 A The claims aren't assigned to a
 12 specific territory during a storm situation
 13 Q I guess what I'm asking: Within
 14 territory four, do you have an idea of how many
 15 claims were made for damages from Ivan?
 16 A Hundreds
 17 Q How do they get assigned out under
 18 a situation where you've got that many claims
 19 coming in? Is it any different than the normal
 20 way they get assigned to you?
 21 A They're assigned to an independent
 22 adjuster A DO inspects the damages.
 23 Q How are those independent

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1 adjusters selected?
 2 A It's usually predetermined that a
 3 certain adjuster -- adjusting firm will handle a
 4 certain county or a certain territory.
 5 Q They get contacted right after the
 6 storm, I assume; is that right?
 7 A Yes
 8 Q In our depositions we took earlier
 9 this month, South Central Agency described a
 10 packet of loss claim forms that are sent
 11 prepared to them with all of their insureds'
 12 names and information on them Are you familiar
 13 with that practice?
 14 A It's called a preprinted loss
 15 notice
 16 Q And the preprinted loss notice --
 17 are you involved in getting those to the agents
 18 in your territory?
 19 A No, I'm not.
 20 Q Does it happen automatically?
 21 A It's done at corporate
 22 Q Do you help process those in any
 23 way?

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1 A The loss notices?
 2 Q Yes, sir
 3 A Yes.
 4 Q How? What do you do?
 5 A When they're returned to us and a
 6 claim is being made, we review the claim,
 7 determine which adjuster -- adjusting firm it's
 8 assigned to, and put a reserve and open the
 9 coverages
 10 Q Okay Are the claims somehow
 11 tracked by your territory? Is there a way to
 12 see how many came out of a county or a territory
 13 or a given area?
 14 A I don't know if there is or not.
 15 I don't know
 16 Q Are the claim numbers that are
 17 assigned -- is there a formula for how that
 18 claim number is assigned? Does one part of it
 19 mean territory four, one part means what year it
 20 came in or something like that?
 21 A The last digits on the claim
 22 number indicate the year that the claim was
 23 reported

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1 Q Turn over to the front of Exhibit
 2 10 for me And that would be that dash 04;
 3 right?
 4 A That's correct
 5 Q Okay The rest of the numbers, do
 6 they mean anything to you?
 7 A 37 is the branch number, which is
 8 the Montgomery branch
 9 Q What about the 4873?
 10 A That's the claim -- the internal
 11 guts of the claim number
 12 Q Is that sequential? Do those go
 13 in order?
 14 A They're in order
 15 Q So that's the 4,873rd claim for
 16 areas 37 in the year 2004?
 17 A That's correct
 18 Q Okay Thank you.
 19 MR PEARSON: Let me put something
 20 on the record. I think that actual page is Bate
 21 stamped AO 72 Just for the record, it's not an
 22 Auto Owners page, but a page run by my
 23 secretary.

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1 Q They went -- the only thing
2 reflected in these documents you're looking at
3 now is GAB Robbins adjusting the building
4 damage; is that true?
5 A That's correct
6 Q All right What you're telling me
7 is you don't know whether Pioneer Services ever
8 told GAB Robbins about the contents claim?
9 A I don't know
10 Q Who would know? Mr. Gauthier?
11 A Mr. Gauthier or Mr. Williamson
12 would probably know the answer to that
13 Q So what happened as a result of
14 the report provided on December 5, 2004 by GAB
15 Robbins concerning the building claim?
16 A We sent a letter to Mr. Williamson
17 advising him that we had received the estimate
18 and would look to discuss the claim with him
19 Q Is that letter included in Exhibit
20 10?
21 A Should be
22 Q Let's find that real quick
23 A Right here

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1 Q Let's put GAB Robbins back
2 together, and put it over here You're
3 discussing, I believe, two pages of a letter
4 that are numbers 178 and 179; is that true?
5 A That's correct
6 Q All right That's a letter from
7 you; is that correct?
8 A Yes, it is
9 Q And it's addressing the property
10 damage claim?
11 A Yes, it is
12 Q Does it also address the contents
13 claim?
14 A Yes, it does
15 Q Let's back up a little bit Can
16 you tell me what involvement you had in Pioneer
17 Services' claim prior to the letter that's dated
18 December 20, 2004?
19 A I received notice of a contents
20 claim on November 8, 2004
21 Q All right How do you recall
22 November 8th? Is there something that happened
23 on that day specifically that you remember?

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1 A I was in Andalusia that day
2 Q All right How did you receive
3 notice of this claim?
4 A I was in the agent's office
5 Q And?
6 A They handed me a stack of papers
7 that Jimmy Williamson had presented to them
8 Q What were those papers?
9 A It was a lightning affidavit and
10 some invoices and a water affidavit
11 Q Who made out those affidavits? Do
12 you recall?
13 A Jimmy Williamson signed them I
14 don't know who prepared them
15 Q So on November 8th, you -- let me
16 see this back Let me show you some documents
17 out of Exhibit 10 They are AO 181 through
18 194 Take a look at that those for me
19 A Okay
20 Q All right Are those the
21 documents that you were handed on November 8,
22 2004?
23 A I believe they were

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1 Q All right And let me be sure I
2 understand the nature of these The first
3 document is a four-page document that says,
4 invoice, and it's dated October 29, 2004 It
5 has a list of equipment and it starts off with,
6 equipment in warehouse water damaged by Ivan
7 storm Does that seem like it's one document?
8 A It appears to be
9 Q All right What do you consider
10 that document to be?
11 A It appears to be an invoice where
12 Pioneer Telephone Services sold themselves some
13 equipment
14 Q Is it an estimate for damaged
15 equipment?
16 A It says it's an invoice
17 Q Okay Well, is that as far as you
18 looked is that top line on the left-hand side --
19 or right-hand side?
20 A No
21 Q What did you do with that
22 document? What did you take it to be when you
23 got it?

46 (Pages 181 to 184)

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1 A I thought he was probably taking
 2 this invoice and wanting to make it an estimate
 3 Q Did you talk to anybody about
 4 that?
 5 A I did
 6 Q Who did you talk to about that?
 7 A Jimmy Williamson.
 8 Q What did you tell Jimmy Williamson
 9 and when?
 10 A I believe the date was November
 11 15th
 12 Q Okay. About a week later?
 13 A That's correct. I advised him
 14 that the claim or the invoice was a lumped-sum
 15 invoice and that we couldn't accept a lump item
 16 like that. We needed invoice prices and line-
 17 by-line prices of what these items costs
 18 Q You told Jimmy Williamson that on
 19 the 15th?
 20 A That's correct
 21 Q Who else was present for that
 22 conversation?
 23 A Just Jimmy Williamson

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1 Q Where did it take place?
 2 A I don't remember if it took place
 3 at his business at Pioneer Telephone Services or
 4 if it took place at his residence in his shed.
 5 Q One or the other?
 6 A One or the other
 7 Q And during the week that you had
 8 this estimate or this invoice which is 181
 9 through 184, did you do anything with it?
 10 A No, I didn't
 11 Q Did you see that language I was
 12 talking about where it said "equipment in
 13 warehouse water damaged by Ivan storm" on it?
 14 A Yes, I did.
 15 Q Did you ever think this was an
 16 invoice?
 17 A I wasn't quite sure what it was.
 18 I know what it said
 19 Q You're talking about the label up
 20 here "invoice"?
 21 A That's right
 22 Q Well, was it obvious to you that
 23 this was an estimate that was done on an invoice

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1 letterhead?
 2 A No
 3 Q So you were confused by this
 4 document?
 5 A I did not know at the time what
 6 that represented
 7 Q At the time it was handed to you?
 8 A That's correct
 9 Q What inquiry, if any, did you make
 10 into the nature of this document?
 11 MR PEARSON: Object to the form
 12 He's already testified to that
 13 A That's when I talked with Jimmy
 14 Williamson about it to find out exactly what
 15 that was.
 16 Q What did he say?
 17 A He said that's the amount he was
 18 claiming was water damaged
 19 Q Your testimony is that you told
 20 him at that time you needed more details?
 21 A Needed a breakdown on it line by
 22 line for the amount each item cost, and we
 23 needed his invoices for price verification on

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1 it
 2 Q Wait a minute. You also asked him
 3 for an invoice, a copy where he purchased it?
 4 A That's correct
 5 Q Okay. You didn't say that
 6 before. Is there anything else that you asked
 7 him for on the 15th of November besides a
 8 breakdown item by item, and now you're saying a
 9 copy of the invoice where he purchased each of
 10 these items?
 11 A That's correct
 12 Q Anything else besides those two
 13 things?
 14 A That I asked him to send to me?
 15 Q Yes.
 16 A Not at that time.
 17 Q Okay. Let me show you Pages 185
 18 through 190. Have you seen that document
 19 before?
 20 A Yes, I have
 21 Q When did you see that document?
 22 A The first time I saw it was
 23 November 8.

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1 Q It was handed to you at the same
 2 time as the other one we were just talking
 3 about? The invoice that was four pages long
 4 concerning water damage?
 5 A That's correct
 6 Q Did you do anything -- what is
 7 that document that you're holding, that four-
 8 page document?
 9 A It's listed as a lightning
 10 affidavit from Pioneer Telephone Services
 11 Q All right Does that itemize the
 12 items discussed that were damaged down to part
 13 number and other details?
 14 A It does contain the part number
 15 and some other details?
 16 Q Does it have a dollar figure at
 17 the end?
 18 A No, it does not
 19 Q But it gives you a list of items
 20 that were damaged by lightning; is that right?
 21 A It gives me a list of items that
 22 he claims were damaged by water, and that was
 23 written on a lightning affidavit

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1 Q All right At the end of it, what
 2 does it say?
 3 A Do you want me to read the last
 4 page?
 5 Q Please
 6 A It says: Belonging to Pioneer
 7 Telephone Services, Incorporated I further
 8 certify that to the best of my knowledge the
 9 above described property was damaged by water
 10 because of damage done to the printed circuit
 11 boards in the above equipment And it's signed
 12 Jimmy Williamson, James H Williamson
 13 Q So regardless of what the title of
 14 the first page was, the certification at the
 15 end -- does that make that an affidavit of water
 16 damage?
 17 A That's what he's claiming
 18 Q That's what he's trying to do,
 19 isn't he?
 20 A Well, he starts out by saying it's
 21 a lightning affidavit, and he ends up saying
 22 it's a water -- I guess a water affidavit
 23 Q Is this the first time you noticed

1 that it had both names on it?
 2 A Today?
 3 Q Yes, sir
 4 A No, it's not
 5 Q When did you first notice that?
 6 A I don't recall the date
 7 Q Did you notice it on the 8th when
 8 you first got it?
 9 A I don't think I noticed it on the
 10 8th
 11 Q Did you notice it on the 15th when
 12 you talked to Jimmy Williamson about the claim?
 13 A I don't think I had noticed that
 14 at that time.
 15 Q Have you ever looked at that
 16 document closely to see if the numbers add up,
 17 or have you ever scrutinized it in any way?
 18 A Which numbers are you referring
 19 to?
 20 Q Any numbers on it
 21 MR PEARSON: Object to the form
 22 Q Anything that you would do to try
 23 to figure out if that document made sense or was

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1 complete in any way?
 2 MR PEARSON: Object to the form
 3 A I don't know if these -- I've
 4 never added the quantity up, if that's what
 5 you're asking
 6 MR HALL: That's what I'm asking
 7 Q Have you ever done anything with
 8 that document other than receive it on the 8th?
 9 A Not this particular document
 10 Q Okay And the affidavit that
 11 you're holding and this invoice that starts Page
 12 181 and 183, do they cover the same -- sorry,
 13 184, do they cover the same items? Have you
 14 ever compared the two to see?
 15 A I've spot checked to see if some
 16 of the items matched up
 17 Q You've spot checked to see if some
 18 did?
 19 A That's correct.
 20 Q When did you do that?
 21 A I don't remember the date.
 22 Q Was it in preparation for this
 23 deposition?

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Page 193	Page 195
1 A No, it was not	1 Q And did he say yes?
2 Q Was it before this lawsuit was	2 A Yes, he did
3 filed?	3 Q What else did you ask him or tell
4 A Yes, it was	4 him about those documents?
5 Q Why did you spot check it?	5 A That's all I remember
6 A Just ran through it to verify	6 Q All right Let me see those
7 that -- let me take that back I'm not sure if	7 back This was a claim for \$21,575 72 for
8 it was this particular document that I spot	8 lightning damage to the contents of Pioneer
9 checked it versus the other one that --	9 Telephone Services?
10 Q From Telcom?	10 A That's correct
11 A No The other one that he sent in	11 Q That is page AO 192 You received
12 with the price list on it I believe it was the	12 the documents we've just talked about on
13 price list, the breakdown of this that I spot	13 November 8th at South Central Agency; is that
14 checked	14 right?
15 Q Okay	15 A That's correct
16 A And do you recall if you got any	16 Q And then you came back a week
17 other documents -- I think probably these are	17 later and met with Jimmy Williamson and brought
18 the two other -- let's just do this: Let me	18 those documents with you; is that right?
19 show you two other documents that are AO 191 and	19 A That's correct
20 192, and then AO 193 and 194 that are two	20 Q At that meeting with Jimmy
21 documents concerning lightning damage Have you	21 Williamson, tell me how that meeting went What
22 ever seen those before?	22 happened in that meeting?
23 A Yes, I have	23 A I met with him at his business
Page 194	Page 196
1 Q Were those presented to you on	1 Q All right
2 November 8th at South Central Agency?	2 A He walked me through the business,
3 A Yes, they were	3 showing me what all had been damaged Most of
4 Q Did you do anything with those	4 the -- everything he showed me was -- everything
5 documents between November 8 and November 15th	5 he showed me was related to the building except
6 when you met with Jimmy Williamson?	6 for these items that he claimed he had already
7 A No, I didn't	7 replaced that were damaged by water, such as the
8 Q What did you do with them when you	8 phone system, some computers I think he showed
9 met with Jimmy Williamson?	9 me some stereo equipment or something that he
10 MR PEARSON: Object to the form	10 claimed had already been replaced
11 On the last question, I believe you stated the	11 Q He showed you new equipment?
12 dates incorrectly	12 A He said it was new equipment
13 Q Did you do anything with those	13 Q Did you have any reason to doubt
14 documents between the time you received them and	14 him?
15 the time you met with Jimmy Williamson?	15 A No, I didn't
16 A No	16 Q Okay You said "he said" It
17 Q Did you do anything with those	17 sounds like you suspect he's lying I'm trying
18 documents when you met with Jimmy Williamson?	18 to ask you: Do you think he was lying about
19 A Yes	19 that?
20 Q What did you do with those	20 A I can't say he was lying He just
21 documents?	21 told me it was new equipment I can't verify
22 A I asked Mr Williamson was this	22 that it was or if it was six months old.
23 the amount he was claiming.	23 Q Do you have any reason to believe

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Page 197	Page 199
1 he was lying?	1 Q Does this say 11/16 of 2004?
2 A No, I don't	2 A Yes, it does
3 Q Has anyone ever presented to you	3 Q At 11:01:48?
4 with any reason to believe that he was lying	4 A Yes, it does
5 about that equipment?	5 Q You took pictures of the outside
6 A No	6 and inside of Pioneer Services building; is that
7 Q After you met with Mr. Williamson	7 true?
8 or while you met with him, did you take	8 A Yes.
9 photographs?	9 Q You took pictures of the outside
10 A I did	10 and the inside?
11 Q There are two sets of photographs	11 A Yes
12 in Exhibit 10. One set is color and the other	12 Q You took pictures of the areas
13 is not Help me identify what photographs that	13 where the stock and inventory were stored when
14 you took when you met with Mr. Williamson	14 they were damaged; is that true?
15 A Those are the ones.	15 MR. PEARSON: Object to the form.
16 Q I'm doing my best to get you to	16 A That's correct
17 them just to show you I've got them I think	17 Q You took a picture of -- well, why
18 those are the photographs See what you think	18 don't you tell me what the pictures are Go
19 A These are the ones.	19 through each one They've got a different
20 Q Let's put these others back over	20 number on each one, don't they?
21 here	21 A They do
22 A Can we go off the record for a	22 Q Why don't you tell me the number,
23 second?	23 and then tell me what it is
Page 198	Page 200
1	1 A All right The picture -- the
2 3:07 p.m.	2 first picture -- you want the MVC 001?
3 (Off the record discussion)	3 Q Just do the number after 00
4 3:10 p.m.	4 because I think they all have MVC 00
5	5 A They do The first picture is a
6 MR. HALL: We're back on the	6 picture of the insured's building
7 record.	7 Q What's the second picture?
8 Q (BY MR. HALL) You have shown me	8 A Second picture is the area in the
9 Pages 270 through 273 These are what appear to	9 warehouse or storeroom where a leak occurred
10 be 14 photographs Does that seem right?	10 The picture is showing where the insured had
11 A That's right	11 this contents that he claimed got wet, where
12 Q Okay Under the photographs, is	12 they were stored The fourth picture is what he
13 there a caption under each one of them? A	13 claimed was his new phone system
14 computer-generated caption	14 Q Does it have a note under that
15 A Yes, there is	15 one?
16 Q Let me see that, please. Is the	16 A It does.
17 caption MVC-001F.JPG? I know what a JPG is	17 Q What does it say?
18 What is the MVC?	18 A New phone system in building
19 A The file name for the picture	19 Q Who wrote that?
20 Q All right 2004/11/16, is that	20 A I did
21 the date that you took the picture?	21 Q Is there a note on the other one?
22 A I don't know if it was taken on	22 What number is that?
23 the 16th or the 15th.	23 A Number three.

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<p>1 Q What does number three say under 2 it in handwriting? 3 A Area insured claims inventory got 4 wet 5 Q When did you write that? 6 A After I printed these out 7 Q When did you print these out? 8 A I don't recall the date 9 Q Was it more than a week after you 10 inspected that building? 11 A It was probably less than a week 12 Q All right Let's go to the next 13 page What do you see on the next page? 14 A That's -- picture five appears to 15 be some carpet. 16 Q Why did you take that picture? 17 A Mr Williamson had advised that 18 the carpet had been damaged 19 Q Were you taking a picture of the 20 damage to the carpet? 21 A I believe so 22 Q All right What about the next 23 picture?</p>	<p>1 you to look at? 2 A Yes, he did 3 Q Did he place any restrictions on 4 your looking at them? 5 A No, he didn't 6 Q Did he give you as much time as 7 you wanted? 8 A Yes, he did 9 Q Did he allow you to take pictures? 10 A Yes 11 Q Did he allow you to take samples 12 if you wanted them? 13 MR PEARSON: Object to the form 14 A We didn't request to take any 15 samples 16 Q Did he ever tell you you weren't 17 allowed to take samples? 18 A No, he didn't 19 Q Did he ever indicate that it would 20 not be okay for you to take some of those? 21 A No, he didn't 22 Q That picture on the top, what 23 number is that that shows the circuit boards?</p>
Page 202	Page 204
<p>1 A The sixth picture is a picture of 2 one of these boards that he claimed was damaged 3 Q Now, is that at a different 4 location? 5 A Yes, it is 6 Q Where was that taken? 7 A That was taken at his residence 8 Q How far was his residence from his 9 office? 10 A A mile, mile and a half 11 Q All right Why did you go to his 12 residence? 13 A That's where the contents he 14 claimed were damaged were located 15 Q All right Did you then go with 16 him to his residence to look at those? 17 A Yes, I did 18 Q And were they stored in a 19 building? 20 A Yes, they were 21 Q Protected from the elements? 22 A Yes, they were 23 Q And did he make them available for</p>	<p>1 A Picture six 2 Q Picture six Tell me why you took 3 that picture. 4 A To show how these boards were 5 packaged. 6 Q How were they packaged? 7 A Inside a cardboard box with 8 protective foam and wrapped -- or inside a 9 plastic bag 10 Q What about the next picture? 11 A Seven? 12 Q Yes 13 A That's pictures of more of these 14 boards that were stacked in there 15 Q What is written underneath number 16 seven? 17 A It says, inventory insured claims 18 got wet 19 Q All right Did you not believe 20 him at that time? 21 A I had my suspicions whether the 22 actual board had gotten wet. 23 Q Why was that?</p>

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Page 205	Page 207
<p>1 A Because they were inside a box 2 wrapped in plastic 3 Q Did you look at any of the boards 4 to see if they had water stains on them? 5 A Yes, I did 6 Q You took them out of the wrapping? 7 A I took a couple of them out 8 Q What did you find? 9 A I didn't see any damage 10 Q Did you take those with you? 11 A No, I didn't 12 Q Was there any water stains on the 13 outside of the boxes? 14 A Some of the boxes did have slight 15 water stains on them 16 Q They had water stains, though? 17 A On some of the boxes 18 Q What about the next picture, 19 number -- I think that's eight? 20 A Uh-huh, (affirmative). 21 Q What does eight show? 22 A That's just a pile of stuff 23 Q Was that all a part of this gear</p>	<p>1 processing unit, which is the box that does all 2 the work on a computer, in my mind Is that 3 what that picture number nine is? 4 A That's correct 5 Q Is number ten a picture of the 6 same unit or a different one? 7 A I believe it's a different one. 8 Q All right And did you plug those 9 in to see if they would operate? 10 A No, I didn't 11 Q What's number 11? 12 A That's a photograph of something 13 he was claiming was damaged 14 Q All right Is it a piece of 15 machinery, an electrical -- some kind of machine 16 that requires electricity to operate? 17 A It appears that it's some device 18 that would require some sort of electricity to 19 run it 20 Q Did you ask him to explain what 21 that was? 22 A No, I didn't 23 Q Did you ask him to correlate any</p>
Page 206	Page 208
<p>1 and equipment that he was showing you? 2 A That's what he was claiming 3 Q Were you allowed access to that? 4 A Yes, I was. 5 Q Did you move any of those pieces 6 of equipment? 7 A No, I didn't 8 Q Did you -- are there computers 9 there? 10 A Yes, there are. 11 Q With CPU -- the box that does all 12 the work on the computer, are they there too? 13 A Yes, they are 14 Q Did you plug any of those in? 15 A No, I didn't 16 Q Did you ask to take any of those 17 with you? 18 A No, I didn't. 19 Q What's on the next page? What's 20 number nine? That's a picture of a CPU, or a 21 computer 22 Q All right I've heard it said 23 both ways. CPU, I think, stands for central</p>	<p>1 of the pieces of equipment depicted in the 2 photographs you've just been through with any of 3 the equipment that was outlined in the estimates 4 you received on November 8th? 5 A No, I didn't 6 Q All right What's number 11? I'm 7 sorry Is that 12? 8 A 12 It's just another photograph 9 of the same stuff that was taken in photograph 10 eight 11 Q It was a lot of stuff, wasn't it? 12 A It was a lot of stuff 13 Q What -- do we have another page? 14 What's on that page? 15 A It's photographs of some more of 16 the boxes that he claims got wet 17 Q All right And you didn't believe 18 him, did you? 19 A No, I believe the boxes got wet 20 Q All right Okay And both of 21 those last two pictures, number 13 and 14, are 22 they the same kind of boxes, similar? 23 A They're not the same boxes.</p>

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1 communication with him until you wrote this
2 letter on December 20, 2004; is that right?
3 A That's correct
4 Q What did that letter say?
5 A It says, Dear Sir or Madam, we
6 received the estimate from an independent
7 adjuster for your building damages I've
8 enclosed a copy for you to review Once you've
9 had a chance to review, please give me a call so
10 that we may settle that portion of the claim
11 As to the damages that you're claiming to your
12 phone system due to lightning and the water
13 damage to inventory, Auto Owners appreciates
14 your professional opinion as to the damages
15 claimed; however, it is a conflict of interest
16 to write your own lighting affidavit We also
17 understand that you have disposed of the damaged
18 equipment without us being able to have a third
19 party verify the damages We are hereby
20 requesting you provide us with outside
21 documentation and evidence for the damage, along
22 with the salvage value Under your policy, the
23 following is contained: Used in the event of

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1 loss or damage, you must see that the following
2 are done in the event of loss or damage to
3 covered property: Take all responsible steps to
4 protect the covered property; for further damage
5 by a covered cause loss; if feasible, set the
6 damaged property aside in the best possible
7 order for examination; also, keep a record of
8 your expenses for emergency and temporary
9 repairs for consideration of settlement of the
10 claim This will not increase the limit of
11 insurance; and, at our request, give us complete
12 inventory of the damaged and undamaged property,
13 including quantities, cost, values and amount of
14 loss claimed; as often as may be reasonably
15 required, permit us to inspect the property
16 proving the loss or damage and examine your
17 books and records; also, permit us to take
18 samples of the damaged and undamaged property
19 for inspection, testing and analysis and permit
20 us to make copies from your books and records
21 Reservation: Please be advised that this letter
22 does not waive any rights or defenses which Auto
23 Owners Insurance Company may have regarding this

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1 matter under any policy of insurance issued by
2 Auto Owners Insurance, whether or not such
3 claims or defenses are set forth herein Auto
4 Owners reserves the right to supplement this
5 letter upon receipt of further information which
6 may subsequently become available Thank you
7 for your time and consideration in the matter
8 If you have any further -- if you need any
9 further assistance, please give me a call at
10 1-800-548-9881, Extension 204
11 Q Is that a form letter?
12 A No, it's not
13 Q Is part of it a form letter?
14 A No, it's not a form letter The
15 duties in the event of a loss is part of the
16 policy language
17 Q Okay The reservation paragraph,
18 is that a form that you insert for this, or did
19 you dictate every word of that?
20 A I don't think I dictated I think
21 I typed this letter myself
22 Q I'm sorry So you typed this
23 letter, and you went and got all the policy

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1 language and put it in there yourself?
2 A That's correct
3 Q All right How did you find
4 out or come to know that the equipment had been
5 disposed of?
6 A I received a call from Larry
7 Dewberry
8 Q And let's back up a notch When
9 did you contact Mr Dewberry to get him
10 involved?
11 A I believe it was on December 9th
12 Q What did you ask him to do?
13 A I'd have to pull the letter out to
14 see.
15 Q Did you call him?
16 A No
17 Q The letter is the communication to
18 Mr Dewberry?
19 A That's correct
20 Q Had you --
21 A Let me take that back I may have
22 called him to let him know I was going to be
23 sending him something.

54 (Pages 213 to 216)

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1 Q All right During this period of
 2 time, November, December, January, did you make
 3 your weekly stop in Andalusia to see South
 4 Central Agency?
 5 A Yes, I did
 6 Q Did you talk to either of the two
 7 principals of that business every time you were
 8 there?
 9 A Not every time I was there.
 10 Q Did you talk to one of them every
 11 time, or did you try to talk to them? Tell me
 12 about that
 13 A Sometimes they were there;
 14 sometimes they were not there
 15 Q Do you know their names?
 16 A John Tomberlin and Harold Young
 17 Q Okay Did you talk to them about
 18 this claim between November and December of '04?
 19 A I don't recall talking to them
 20 while in their office
 21 Q You don't recall talking to them
 22 while you were at their office?
 23 A No

1 prices on them
 2 Q The details you were talking about
 3 earlier?
 4 A That's correct I believe those
 5 came in --
 6 Q That would --
 7 A -- in that time period
 8 Q That would have been what you were
 9 spot checking --
 10 A That's correct
 11 Q -- to see if it added up right?
 12 A That's correct
 13 Q Did anything in your spot checking
 14 lead you to believe that the numbers didn't
 15 match up?
 16 A No
 17 Q Did you communicate with Jimmy
 18 Williamson in any way between the time you sent
 19 the letter to Mr Dewberry and the December 20th
 20 letter?
 21 A No, I didn't
 22 Q And it's your testimony that when
 23 you left Jimmy Williamson's house on November

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1 Q Do you recall any other times you
 2 talked to them? On the phone or any other way?
 3 A I believe I got a phone call from
 4 them asking what the status was on it
 5 Q And why were they calling about
 6 that?
 7 A I don't know that
 8 Q Why do agents usually call you
 9 about status on a claim?
 10 A Usually because the insured has
 11 contacted them
 12 Q What did you tell them about the
 13 status of the claim?
 14 A I don't recall the exact words
 15 I'm sure I told them we were working on the
 16 claim, and we're trying to resolve it
 17 Q What activity took place on the
 18 claim from November 16th to December 20th other
 19 than the letter to Mr Dewberry?
 20 A That's all -- I take back I
 21 believe that Jimmy Williamson had, in the
 22 meantime, faxed me a breakdown of those
 23 invoices -- on those invoices and listed the

1 15th or 16th, you believe that you wanted to
 2 have someone test the equipment?
 3 A I was quite certain that we were
 4 going to have to send somebody out to inspect
 5 it
 6 Q But you never wrote him to tell
 7 him that?
 8 A I told him that while we were in
 9 his shed?
 10 Q But you didn't put that in
 11 writing, did you?
 12 A No, I didn't
 13 Q When you wrote this letter on
 14 December 20th, you said, we also understand that
 15 you have disposed of the damaged equipment
 16 without us being able to have a third party
 17 verify the damages We are hereby requesting
 18 you provide us with outside documentation and
 19 evidence of the damages, along with the salvage
 20 value Did Mr Williamson ever do that?
 21 A He did send us some other
 22 information
 23 Q What did you do with that

55 (Pages 217 to 220)

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1 information?
 2 A Reviewed it.
 3 Q Can you find that for me in the
 4 stack? Are those the estimates from Telcom?
 5 A That's correct
 6 Q We've already marked those as a
 7 separate exhibit Just to keep us from taking
 8 them out of the book, look at Page -- is 123
 9 included in there?
 10 A I what?
 11 Q 123.
 12 A No, it's not
 13 Q How did we pull that off? All
 14 right Is there a gap --
 15 A There's a gap from 122 to 142
 16 Q Well, here, let me pass you over
 17 something
 18 MR PEARSON: Again, Plaintiff's
 19 Exhibit 10 is what Harry brought He knows that
 20 he had all those documents --
 21 MR. HALL: That's right We're
 22 going to fill in the gaps.
 23 Q Let me show you what's been marked

1 A Yes, I did.
 2 Q What did you do with that
 3 information?
 4 A We didn't do with anything with
 5 it
 6 Q What did you do with this document
 7 that is AO 123 through 127?
 8 A I did review the information
 9 contained in there.
 10 Q Did you also receive Exhibit 4,
 11 which is AO 128 through 131?
 12 A Yes, I did
 13 Q Is this a quotation from Telcom
 14 Services?
 15 A That's what it says.
 16 Q Did you review that document?
 17 A Yes, I did
 18 Q What did you learn from that
 19 document when you looked at it?
 20 A I saw that it was the exact same
 21 information that had been sent to me before
 22 except the names had been changed on it
 23 Q What did you do with it after you

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1 Plaintiff's Exhibit 3 Is that one of the
 2 documents that Mr Williamson sent you after the
 3 meeting in November in his shed?
 4 A Yes, it is
 5 Q Is that signed by Mac Bracewell?
 6 A It appears to be signed by SWP
 7 Q On behalf of Mr Bracewell?
 8 A It's signed K Mac Bracewell by
 9 SWP
 10 Q Do you take exception to that
 11 signature line?
 12 A On an affidavit?
 13 Q Yes, sir
 14 A Yes
 15 Q What's wrong with that?
 16 A Never signed by -- or doesn't
 17 appear to be signed by Mac Bracewell
 18 Q Did you ever call Mr Bracewell to
 19 find out if he authorized his signature on that
 20 document?
 21 A No, I didn't
 22 Q Did you notice that it was by SWP
 23 at the time you received it?

1 noticed that?
 2 A That's all I did with it.
 3 Q Did you put it in the file?
 4 A It went in the file
 5 Q Did you compare it to any of the
 6 other invoices or quotations?
 7 A I compared it with the previous
 8 invoices that had come in.
 9 Q Did you contact Telcom Services?
 10 A No, I didn't
 11 Q Did you contact Jimmy Williamson?
 12 A No, I didn't
 13 Q Did you contact anybody about this
 14 when you received it?
 15 A No, I didn't
 16 Q Did you do anything with the
 17 information other than put it in the file?
 18 A I reviewed it and saw that it was
 19 the exact same thing that we had prior to that
 20 Q So you reviewed it and put it in
 21 the file?
 22 A That's correct
 23 Q What about Exhibit 5? What is

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1 Exhibit 5?
 2 A It's listed as a lightning
 3 affidavit from Telcom Services
 4 Q Did you receive that as well after
 5 your November 16th meeting with Jimmy
 6 Williamson?
 7 A I did receive it after that
 8 Q What did you do with it?
 9 A I reviewed it
 10 Q What did you do with it after you
 11 reviewed it?
 12 A I put it in the file
 13 Q Did you call Telcom Services about
 14 this affidavit?
 15 A No, I didn't
 16 Q What about Plaintiff's Exhibit 6?
 17 Did you review that?
 18 A Yes, I did.
 19 Q What is Plaintiff's Exhibit 6?
 20 A It's a quotation for damaged
 21 items
 22 Q Okay Who submitted this
 23 quotation?

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1 A Jimmy Williamson submitted it
 2 Q Who quoted it?
 3 A It says Telcom
 4 Q Did you ever call Telcom Services
 5 for any reason?
 6 A No, I didn't
 7 Q Did you find out who they were?
 8 A I found out who Mac Bracewell was
 9 Q What did you do to find out who
 10 Mac Bracewell was?
 11 A I asked the agent
 12 Q Which of the agents did you speak
 13 to about that?
 14 A I can't remember if it was Harold
 15 or John
 16 Q And when -- did you do that in
 17 person or on the phone?
 18 A I think I did it on one of my
 19 weekly visits down there
 20 Q So in person, you asked one of the
 21 agents about Mac Bracewell?
 22 A I asked who Mac Bracewell was
 23 Q What did they tell you?

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1 A That he -- they weren't exactly
 2 sure, but they said he either used to own
 3 Pioneer Telephone or worked at Pioneer Telephone
 4 or may be the one who sold Pioneer Telephone to
 5 Jimmy Williamson
 6 Q Was that information relevant to
 7 your investigation?
 8 A It was relevant for me to just
 9 generally inquire on who Mac Bracewell was
 10 Q Did you make any further inquiries
 11 besides asking South Central Agency who he was?
 12 A No, I didn't
 13 Q Were you satisfied with the
 14 information you received from them?
 15 A It gave me an idea of who Mac
 16 Bracewell was
 17 Q Okay Was that enough information
 18 for you?
 19 MR PEARSON: Object to the form
 20 A It was all the information that I
 21 obtained from them
 22 Q Was it all the information you
 23 needed about him?

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1 MR PEARSON: Object to the form
 2 A It was all the information that I
 3 was going to find out about Mac Bracewell
 4 Q All right You said that's all
 5 that you were going to find out about him Why
 6 is that all you that were going to find out
 7 about him?
 8 A At this point, after reviewing
 9 these lightning affidavit/water affidavits that
 10 he sent in, they were nothing more than a
 11 duplicate of what we had already received And
 12 then find out the fact that he had ties to Jimmy
 13 Williamson in the past or had some sort of
 14 dealings with him, then it made his lightning
 15 affidavit and water affidavit seem less
 16 credible
 17 Q Did you ever communicate that to
 18 Jimmy Williamson?
 19 A No, I didn't
 20 Q Did you ever communicate that to
 21 Mac Bracewell?
 22 A No, I didn't
 23 Q Did you ever communicate that to

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1 lightning damage to all that equipment?
 2 A No.
 3 Q Okay So instead of believing the
 4 information that was submitted to you by two
 5 different people, Mr Williamson and then Telcom
 6 Services, you chose to not believe that and go
 7 get a lightning strike report?
 8 MR. PEARSON: Object to the form
 9 and object to that characterization.
 10 A After reviewing the lightning
 11 affidavit/water affidavits, they appeared to be
 12 so vague -- a claim of that magnitude, to put a
 13 one-line sentence in there to describe damage to
 14 numerous pages of items damaged, that it seemed
 15 that the information was too vague to pay a
 16 claim of this size based on that limited
 17 information.
 18 Q Did you ever tell that to Jimmy
 19 Williamson or Mac Bracewell?
 20 A No, I didn't.
 21 Q Did you ever communicate that to
 22 anybody?
 23 A No, I didn't.

1 Q Do you know --
 2 A Well, let me rephrase that I
 3 have not I cannot speak for everybody that
 4 works for Auto Owners
 5 Q And you're not aware of anyone
 6 doing it, are you?
 7 A No
 8 Q And is there any information that
 9 they could have given you that would have made
 10 it less vague, made the report less vague?
 11 A I don't know what they could have
 12 given me. They could have given a better
 13 description of the items. It seems not
 14 realistic that every item in here damaged is due
 15 to -- damaged because of damages done to the
 16 printed circuit boards. That's an awful lot of
 17 items to claim under --
 18 Q Are you familiar with printed
 19 circuit boards?
 20 A I know what a printed circuit
 21 board is.
 22 Q Have you worked with them?
 23 A No, I never have.

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1 Q All right Did you ever ask Mac
 2 Bracewell to explain to you the basis for his
 3 opinion that the different pieces of equipment
 4 had been damaged?
 5 A No Mr Bracewell had -- or
 6 somebody had put that on the affidavit as what
 7 his opinion to the damages were.
 8 Q You never asked him about that?
 9 A I never asked him about that.
 10 Q Did you ask him to explain with
 11 more detail so it wasn't as vague?
 12 A No, I didn't.
 13 Q Why not?
 14 A We wanted to inspect the items in
 15 the beginning because this information that we
 16 were given was too vague to substantiate a claim
 17 of this size.
 18 Q To this date, January 25, 2007,
 19 have you or anybody from Auto Owners ever asked
 20 Mr Williamson or Mr Bracewell to give you more
 21 details about the damages to the specific pieces
 22 of equipment?
 23 A No.

1 Q Have you ever put them into
 2 equipment to service telephone systems?
 3 A I've never serviced telephone
 4 systems.
 5 Q Would you agree Mac Bracewell is
 6 familiar with that kind of equipment?
 7 MR. PEARSON: Object to the form.
 8 A I don't know whether Mac Bracewell
 9 is familiar with that or not.
 10 Q And you never tried to find out,
 11 did you?
 12 A No, I didn't.
 13 Q You did find out from South
 14 Central Agency, though, that he had worked in
 15 that business, didn't you?
 16 A That's what they told me.
 17 Q And you had no reason to doubt
 18 them, did you?
 19 A No, I didn't.
 20 Q You also knew that Pioneer
 21 Telephone Services worked in the telephone
 22 installation business, didn't you?
 23 A That's correct.

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<p>1 documentation from an outside source concerning</p> <p>2 this claim?</p> <p>3 A They are documents from an outside</p> <p>4 source</p> <p>5 Q So you received documents pursuant</p> <p>6 to your request in your December 20th letter;</p> <p>7 right?</p> <p>8 A That's correct</p> <p>9 Q And you didn't do anything with</p> <p>10 them, did you?</p> <p>11 A Other than review them, no</p> <p>12 Q You never told anybody that they</p> <p>13 were insufficient in some way, did you?</p> <p>14 A No, I didn't?</p> <p>15 Q You looked at them and put them in</p> <p>16 the file; right?</p> <p>17 MR PEARSON: Object to the form</p> <p>18 A They were reviewed and put in the</p> <p>19 file</p> <p>20 Q All right. Now, you listed a part</p> <p>21 of the policy, Section Three, duties in the</p> <p>22 event of loss, and then you put down four, five</p> <p>23 and six as the subparts that you quoted Why</p>	<p>1 MR HALL: Well, object to the</p> <p>2 form</p> <p>3 MR PEARSON: I am objecting to</p> <p>4 the form You keep characterizing --</p> <p>5 MR HALL: The Court says don't do</p> <p>6 this</p> <p>7 MR PEARSON: I'm not doing</p> <p>8 anything other than --</p> <p>9 MR HALL: This is a speaking</p> <p>10 objection suggesting an answer</p> <p>11 MR PEARSON: Harry, I've been</p> <p>12 through -- we're about to reach a time limit on</p> <p>13 this thing</p> <p>14 MR HALL: And I wish you would</p> <p>15 stop taking the time limit</p> <p>16 MR PEARSON: No, I haven't taken</p> <p>17 up any time all day to object to the questions</p> <p>18 that you've asked repeatedly making a</p> <p>19 mischaracterization of something But anyway,</p> <p>20 you can go ahead and ask the question I've</p> <p>21 objected to it, and he can answer</p> <p>22 MR HALL: Thank you</p> <p>23 Q Back to you, Mr. Reaves You have</p>
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<p>1 did you quote those in this letter?</p> <p>2 A That was letting the insured know</p> <p>3 he had not followed procedures under the policy</p> <p>4 Q Did you say that he had not</p> <p>5 followed procedures under the policy?</p> <p>6 A No. That was -- the information</p> <p>7 in that letter was notifying him of what his</p> <p>8 duties are according to the policy</p> <p>9 Q So you wanted him to follow those</p> <p>10 duties from that point forward; right?</p> <p>11 MR PEARSON: Object to the form</p> <p>12 A No I was advising him of what</p> <p>13 his obligations are under the policy</p> <p>14 Q Which one of these did you want</p> <p>15 him to do?</p> <p>16 MR PEARSON: Object to the form</p> <p>17 and object to the characterization of which one</p> <p>18 he wanted him to do That it's suggesting that</p> <p>19 it's asking him to do something</p> <p>20 MR HALL: We've done good, Joel,</p> <p>21 until now</p> <p>22 MR PEARSON: No, I'm just saying</p> <p>23 you keep nitpicking this stuff.</p>	<p>1 three subparts that are listed here. One says,</p> <p>2 take reasonable steps to protect the covered</p> <p>3 property And it goes on beyond that, but</p> <p>4 that's the way it starts, number four Did he</p> <p>5 do that?</p> <p>6 A Yes, he did</p> <p>7 Q Okay By taking it out of his</p> <p>8 office at Pioneer Services and storing it in the</p> <p>9 shed where you took the pictures, he complied</p> <p>10 with number four, didn't he?</p> <p>11 MR PEARSON: Object to the form</p> <p>12 A He did take the property and</p> <p>13 protect it for --</p> <p>14 Q Did he do what's called for in</p> <p>15 number four?</p> <p>16 MR PEARSON: Object to the form</p> <p>17 He's still answering the question, and you cut</p> <p>18 him off</p> <p>19 A Let me see number four. Yes, he</p> <p>20 did</p> <p>21 Q All right Let's skip on to</p> <p>22 five At our request, give us complete</p> <p>23 inventories of the damaged and undamaged</p>

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1 A No, he didn't
 2 Q After your December 20th letter,
 3 you received Exhibits 3 through 7, and you sent
 4 a letter to Mr. Dewberry and got a letter back
 5 from Mr. Dewberry. What did you do next?
 6 A I believe I reported this to our
 7 home office claims
 8 Q Let's look at that document. Is
 9 this a fax you sent up to the home office?
 10 A Yes, it is.
 11 Q Is that a fax -- I think it's
 12 maybe 109 -- tell me what that is, Pages 109 and
 13 110 of Exhibit 10.
 14 A It's an interoffice communication
 15 that was done on December 21st to our corporate
 16 claims office
 17 Q In that, did you outline to your
 18 corporate claims office the information about
 19 this claim?
 20 A Yes, I did
 21 Q Did you draft this before the 21st
 22 of December?
 23 A I may have. It may have been

1 could dispose of the property?
 2 A Larry Dewberry told me that
 3 Q Have you ever talked to Jimmy
 4 Williamson about that?
 5 A No, I haven't
 6 Q Did you ever call him to find out
 7 if that was true?
 8 A No. I believe I mentioned that in
 9 my December 20th letter.
 10 Q How did you mention that in your
 11 December 20th letter?
 12 A Okay. I was mistaken. I did not
 13 mention that in the December 20th letter
 14 Q All right. In this letter of
 15 December 21st, it says --
 16 A No, no. Let me back up. It says,
 17 we also understand that you have disposed of the
 18 damaged equipment without us being able to have
 19 a third party verify the damages
 20 Q But not about who told him he
 21 could dispose of it?
 22 A No
 23 Q This letter of December 21st says,

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1 drafted on the 20th and printed on the 21st
 2 Q At the most, one day delay?
 3 A Right
 4 Q In this you said, as to the phone
 5 system, I saw that the -- what the insured said
 6 was phone system, but was unable to identify any
 7 internal lightning damage. What did you do to
 8 attempt to verify internal lightning damage?
 9 A I just looked at the phone system.
 10 Q Didn't you tell me earlier that
 11 you had no way of determining if there was
 12 lightning damage?
 13 A I'm not an expert in determining
 14 lightning damage
 15 Q Right. So you wouldn't be able to
 16 just by looking at it, could you?
 17 A However, I didn't see any obvious
 18 visible damage.
 19 Q Did you ask him to point out the
 20 damage to you?
 21 A I don't recall asking him
 22 Q Did Mr. Dewberry tell you that
 23 Jimmy Williamson was told by the agent that he

1 it was Mr. Dewberry's understanding that the
 2 insured's agent had advised him that he could
 3 dispose of the property. We have not yet
 4 verified that with the insured. Did you do
 5 anything to find out -- to verify that with the
 6 insured?
 7 A I didn't call him
 8 Q Did you do anything to verify
 9 that?
 10 A I put it in the December 20th
 11 letter.
 12 Q No, you didn't. I'm asking if you
 13 did anything to verify whether or not the agent
 14 told Mr. Williamson he could dispose of the
 15 property?
 16 A I'm sorry. Ask me again.
 17 Q We're on the last line of the
 18 second paragraph of the second page: We have
 19 not yet verified that with the insured. And
 20 "that" being him being told by the agent he
 21 could dispose of the property. Do you follow
 22 me?
 23 A. Okay. What is your question?

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1 Q Did you do anything to verify that
 2 with the insured?
 3 A I verified that with the agent
 4 Q You never called the insured about
 5 that, did you?
 6 A No, I didn't
 7 Q What did the agent say?
 8 A The agent advised that Jimmy
 9 Williamson had called them in a panic saying
 10 that somebody wanted to come look at the
 11 equipment, and he'd already thrown it away. And
 12 the agent said that he was telling them that
 13 they had told him he could throw it away
 14 Q And?
 15 A The agents advised that they
 16 didn't tell him he could throw it away
 17 Q Did you ever ask Jimmy Williamson
 18 whether the agents told him he could throw it
 19 away?
 20 A No, I didn't
 21 Q If the agents had told him to
 22 throw it away, would that affect your decision
 23 about this claim?

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1 A I would have to -- that decision
 2 would have to be made from a branch manager or
 3 somebody
 4 Q Well, if an agent told an insured
 5 it was okay to throw something away, would you
 6 agree that it would be reasonable for the insured
 7 to rely on that and throw it away?
 8 MR PEARSON: Object to the form.
 9 A I wouldn't think it would be
 10 reasonable if they were told to keep the damaged
 11 equipment, and they threw it away
 12 Q If they were told by their agent
 13 after they had held it for almost a month that
 14 it was okay to get rid of it, would there be any
 15 reason for them to hold on to it?
 16 A I don't know I would think I
 17 would want to check with whoever was handling
 18 the claim
 19 Q Because you're an insurance man
 20 You know that, don't you?
 21 A Yes
 22 Q Well --
 23 A Especially after he had been told

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1 that somebody was coming to look at it
 2 Q That's what you've said You said
 3 that December 15th --
 4 A That's correct
 5 MR PEARSON: Object to the form
 6 Object to the mischaracterization of the date
 7 MR HALL: All right What'd I
 8 say?
 9 MR PEARSON: I believe -- April,
 10 did he say December 15?
 11 COURT REPORTER: December 15.
 12 MR HALL: November 15th. Thank
 13 you, Joel
 14 Q We have not yet verified that with
 15 the insured You never tried to verify it with
 16 the insured, did you?
 17 A No
 18 Q I plan to get a statement from the
 19 insured when he calls about the building damages
 20 and what the agent told him You did not do
 21 that, did you?
 22 A He never called
 23 Q He never called?

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1 A No
 2 Q Did you have his phone number?
 3 A Yes, I did
 4 Q Did you call him?
 5 A I sent him a letter requesting he
 6 contact me
 7 Q What letter? The February 3rd
 8 letter?
 9 A I'd have to see that letter
 10 Q So you're saying that, I plan to
 11 get a statement from the insured when he calls
 12 about the building damages and what the agent
 13 told him, you're saying you accomplished that by
 14 writing a letter to Mr. Williamson?
 15 A I'm sorry Ask me again
 16 Q I plan to get a statement from the
 17 insured when he calls about the building damages
 18 and what the agent told him. You wrote that;
 19 right?
 20 A Let me back up I'd have to see
 21 the letter to --
 22 Q Find the letter It's a February
 23 3rd letter. You can do it faster than I can.

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1 MR PEARSON: 244.
 2 A Okay Let me go back
 3 Q All right
 4 A I did not -- is there another
 5 letter before the February 3rd in here
 6 somewhere? I thought there was a letter that we
 7 had sent him sometime early January or late
 8 December to contact us concerning his claim
 9 Okay. It was in the December 20th letter
 10 Q What was in the December 20th
 11 letter?
 12 MR PEARSON: I don't what the
 13 question was now
 14 MR HALL: I don't remember now
 15 either
 16 MR PEARSON: You asked about a
 17 letter in late December and --
 18 Q Okay I'm going to ask this
 19 again You said in your December 21st fax to
 20 the home office that you plan to get a statement
 21 from the insured about this You never did
 22 that, did you?
 23 A No, I didn't

1 A No, I didn't
 2 Q Well, if you didn't try to get a
 3 statement about something that was important
 4 enough to write to the home office and you just
 5 told me that he had already put this claim in
 6 jeopardy, don't you agree that all you did from
 7 this point forward was find out to deny the
 8 claim?
 9 A No
 10 Q What did you do from December 20th
 11 forward to try and find coverage?
 12 A We ran the lightning strike
 13 report
 14 Q Was that trying to find coverage?
 15 A That was trying to verify the
 16 lightning claim
 17 Q Would you agree that was trying to
 18 decline coverage?
 19 MR PEARSON: Object to the form
 20 A No, it was trying to find a way to
 21 pay the claim
 22 Q Well, you had estimates where he
 23 complied with Paragraph Five of your December

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1 Q Did you take any steps to attempt
 2 to do that?
 3 A I had asked him in the December
 4 20th letter to contact me concerning his claim
 5 Q Did you take any steps besides the
 6 letter you had written before you wrote this
 7 letter to try to get a statement about this
 8 issue of whether the agent told him to dispose
 9 of the property?
 10 A No
 11 Q Would you agree that would have
 12 been relevant information in considering this
 13 claim?
 14 A Not necessarily
 15 Q Why did you want to know what he
 16 said if it wasn't relevant?
 17 A At one point, I thought we may
 18 want to ask him about that, but given the fact
 19 that he had already destroyed it after being
 20 told not to, he had already put this claim in
 21 jeopardy
 22 Q Did you seize on that opportunity
 23 to deny the claim?

1 20th letter from both Pioneer Services as well
 2 as a third party, Telcom Services, didn't you?
 3 A I did
 4 Q You chose to disregard both of
 5 those and put them in the file after looking at
 6 them; right?
 7 A The one from Pioneer Services was
 8 disregarded because it was a conflict of
 9 interest to write your own lightning affidavit
 10 Q So when he supplied you with a
 11 replacement from a third party, you disregarded
 12 that one as well, didn't you?
 13 A Not totally
 14 Q In what way did you not disregard
 15 it?
 16 A It was considered before it was
 17 denied
 18 Q And then put in the file?
 19 A I mean, it was in the file
 20 Q You looked at it and put it in the
 21 file, you told me earlier?
 22 A Right
 23 Q That's all you did with it; right?

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1 suspicions
 2 A I don't have any suspicions
 3 Q I just wanted to be sure there
 4 wasn't some other concerns that you had about
 5 that
 6 A No.
 7 Q Do you know if Jimmy Williamson
 8 had a claim on his personal residence?
 9 A I do not
 10 Q All right In your letter of
 11 December 20th, you set out three subparagraphs
 12 of the policy Were you identifying three
 13 subparagraphs that you believe he had not
 14 complied with or that Pioneer Services had not
 15 complied with?
 16 MR PEARSON: Object to the form
 17 Asked and answered
 18 A Some of the provisions in there,
 19 he had not complied with
 20 Q Okay And we've been through them
 21 in some detail, we talked about that Are there
 22 any other provisions of the policy that would
 23 have led to you denying this claim other than

1 A That's correct
 2 Q This February 3rd letter was a
 3 denial of the claim; is that correct?
 4 A Let me look at it
 5 Q Okay
 6 A That's correct.
 7 Q And you cited two provisions of
 8 his policy, Paragraphs Four and Six, in your
 9 February 3rd letter; is that right? Under item
 10 three, duties in the event of a loss, and you
 11 cited four and six; right?
 12 A Items four and six are --
 13 Q They're cited in your letter?
 14 A That's correct
 15 Q In your December 20th letter, you
 16 cited, under part three, duties in the event of
 17 a loss, four, five and six. You left five off
 18 of this second letter; right?
 19 A It is not on there
 20 Q Is that because they complied with
 21 five?
 22 A I'd have to look at five again to
 23 see what it is. At the time the December letter

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1 those three you set out in the December 20, 2004
 2 letter?
 3 A I don't believe so
 4 Q And then your February 3rd
 5 letter -- which is 244; is that right? AO 244
 6 and 245?
 7 A That's correct
 8 Q This is not on letterhead, but it
 9 went out on letterhead, didn't it?
 10 A That's just a second copy that
 11 went out on the printer
 12 Q It would look the same as this
 13 letterhead that the December 20th version is
 14 on And I think we have one, but I'm not going
 15 to dig for it right now.
 16 A Had I had a copy machine, it would
 17 have
 18 Q You just printed it on
 19 nonletterhead to save money?
 20 A Yeah
 21 Q That's a good way to keep
 22 records. This is the letter that went out to
 23 him on February 3rd?

1 went out, we had not received -- I don't believe
 2 we had received a complete breakdown of
 3 everything he was claiming
 4 Q But after that, you did receive
 5 this other stuff we talked about in Exhibits 3
 6 through 7 --
 7 A Right
 8 Q -- and the financial records So
 9 that satisfied five; right?
 10 A I believe so
 11 Q So you still had four and six.
 12 And we've already agreed that he complied with
 13 four as far as protecting the property; right?
 14 MR PEARSON: Object to the form
 15 A He protected it for a short period
 16 of time
 17 Q Okay Well, six is really what
 18 you're focusing on here: As often as may be
 19 reasonably required, permit us to inspect Did
 20 you believe he violated four or six?
 21 A Yes, I did
 22 Q Both or one or the other?
 23 A Let me look at four. What was the

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1 question again?
 2 Q I believe my question was: Did
 3 you believe he had complied with Paragraph Four
 4 where he protected the equipment?
 5 MR PEARSON: Object to the form
 6 and asked and answered
 7 A He did for a short period of time.
 8 Q You said before he had. Now
 9 you're going to put on there, for a short period
 10 of time?
 11 A Well, he did protect it for -- I
 12 don't know when he moved it to the storage shed
 13 Q That's right, you don't know.
 14 A I don't know that. But he
 15 protected it for less than a month
 16 Q Six is what you're really
 17 concerned about. That you weren't really able
 18 to see it again; right?
 19 MR PEARSON: Object to the form
 20 A Number six is where there was a
 21 problem with the claim
 22 Q And six says, as often as may be
 23 reasonably expected; correct?

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1 A Correct
 2 Q And you believe that means more
 3 than the inspection that took place on November
 4 15th?
 5 A Absolutely.
 6 Q But you never wrote him and told
 7 him you wanted another inspection, did you?
 8 A No. I told you I told him while
 9 we were in the shed that we were going to send
 10 somebody to look at it.
 11 Q And you waited how long before you
 12 sent somebody?
 13 A It was less than a month.
 14 MR PEARSON: Object to the form
 15 I'm telling you, Harry, this -- I've been very
 16 generous on letting you cover the same ground
 17 over and over. Now, get on with it. We've been
 18 here -- the time limit is coming in ten
 19 minutes. If this deposition isn't over in ten
 20 minutes, we're going to call the judge again.
 21 MR HALL: Thank you.
 22 MR PEARSON: Because I believe
 23 that we set a limit on it, but I'll check --

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1 we'll stop and check the report and see what the
 2 time limit is on it. But I'm trying to be -- we
 3 are going on six hours.
 4 Q Have you had any other
 5 conversations or exchange of information with
 6 Pioneer Telephone Services other than the
 7 February 3rd letter, December 20th letter and
 8 the conversation on November 15th?
 9 A I don't believe so.
 10 Q All right. Did you ever tell
 11 South Central Agency, either one of the
 12 principals there, that if Jimmy Williamson
 13 pursued this claim any further that you would
 14 subrogate against his personal claim?
 15 A No, I didn't.
 16 MR HALL: That's all I've got.
 17 Thank you. We'd attach Exhibit 10, which I'll
 18 put back together in the right order. Do you
 19 have anything?
 20 MR PEARSON: No, I don't have
 21 anything.
 22 ENDED AT 5 p m
 23 FURTHER DEPONENT SAITH NOT

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1 C E R T I F I C A T E
 2
 3 STATE OF ALABAMA)
 4 MONTGOMERY COUNTY)
 5
 6 I hereby certify that the above
 7 and foregoing deposition was taken down by me in
 8 stenotype, and the questions and answers thereto
 9 were transcribed by means of computer-aided
 10 transcription, and that the foregoing represents
 11 a true and correct transcript of the deposition
 12 give by said witness upon said hearing.
 13 I further certify that I am
 14 neither of counsel nor of kin to the parties to
 15 the action, nor am I in any way interested in
 16 the result of said cause.
 17
 18
 19 APRIL BENDINGER, CCR
 20 CERTIFICATE NUMBER CCR-384
 21
 22 My Commission Expires
 23 June 8, 2008

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